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SERVICE DATE – DECEMBER 16, 2005

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

STB DOCKET NO. AB-882 (Sub-No 2X)

**Minnesota Commercial Railway Company – Discontinuance of Trackage Rights
Exemption – in Washington County, MN**

BACKGROUND

In this proceeding, Minnesota Commercial Railway Company (MNNR) filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 in connection with the discontinuance of trackage rights over a .99-mile rail line between milepost 11.81 and milepost 12.80, in Stillwater, Washington County, Minnesota. If the notice becomes effective, MNNR would be able to discontinue its trackage rights over the line. A map depicting the rail line in relationship to the area served is appended to the report.

BNSF Railway Company (BNSF) previously filed a notice of exemption under 49 CFR 1152 Subpart F-Exempt Abandonments to abandon the same rail line. See STB Docket No. AB-6 (Sub-No. 413X), The Burlington Northern and Santa Fe Railway Company - Abandonment Exemption - in Washington County, MN. By decision served on June 25, 2004, the Board granted an exemption for BNSF to abandon the line subject to certain environmental conditions.

DESCRIPTION OF THE LINE

The line was acquired by the Stillwater Union Depot and Transfer Company (SUDT), the Stillwater Street Railway & Transfer Company (SST), and the Northern Pacific Railway Company (NP) between 1871 and 1910. The SUDT and the SST were predecessors to NP. In 1970, NP merged with other railroads to become part of Burlington Northern Railroad (BN), and in 1995, BN merged with the Atchison Topeka and Santa Fe Railway to become BNSF.

The right-of-way is located within Stillwater, which is an urban area. Additionally, the line is in close proximity to the St. Croix National Scenic Riverway, one of eight original rivers designated by Congress when the National Wild & Scenic Rivers Program was established in 1968. Under the Wild and Scenic Rivers Act, it is the policy of the United States to preserve selected rivers, or sections thereof, in their free-flowing condition to protect the water quality of such rivers and to fulfill other national conservation purposes. See Wild and Scenic Rivers Act, 16 U.S.C. 1271.

The width of the right-of-way varies from 20 to 210 feet, and there has been no local or overhead traffic on the line for over two years. As part of its planned abandonment, BNSF stated

that it would remove the remaining rail, track material, and crossties; however, the roadbed would be left intact. The proposed discontinuance of trackage rights would not include salvage operations separate from those connected with the previously mentioned abandonment.

ENVIRONMENTAL REVIEW

As part of the previous abandonment proceeding, BNSF submitted an Environmental and Historical Report that concluded that the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. BNSF served the Environmental and Historical Report on a number of appropriate Federal, state, and local agencies as required by the Board's environmental rules [49 CFR 1105.7(b)]. MNNR submitted BNSF's Environmental and Historic Report and the Environmental Assessment served on June 4, 2004 (June 2004 EA) as part of its filing in this proceeding to demonstrate compliance with the Board's environmental rules at 49 CFR Part 1105. SEA has reviewed and investigated the record in this proceeding.

Because no traffic has moved on the line segment in over two years, the proposed discontinuance of trackage rights would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

SEA recommended four environmental conditions in the June 2004 EA and an additional two conditions in response to comments on the EA. The Board imposed these conditions in its June 25, 2004 decision. These conditions required BNSF to undertake certain consultation activities prior to salvage of the line and included a condition to ensure compliance with the National Historic Preservation Act, 16 U.S.C. 470f (NHPA).¹ Based on BNSF's compliance

¹ The Board's decision imposed six conditions that required BNSF to: (1) notify the National Geodetic Survey at least 90 days prior to salvage activities to plan for the relocation of one geodetic station marker; (2)(a) consult with the National Park Service, St. Croix National Scenic Riverway (SCNSR), prior to commencement of any salvage activities on this project, to identify the appropriate mitigation measures that may be warranted, (b) if it is determined that the abandonment would impact the water quality of the St. Croix River, contact the Minnesota Department of Natural Resources, Natural Heritage and Nongame Research Program, prior to commencement of any salvage activities on this project, and (c) report the results of these consultations to SEA; (3) consult with the National Park Service's Midwest Regional office prior to commencement of any salvage activities to determine the possible impacts to the SCNSR, and report the results of this consultation to SEA; (4) prior to commencement of any salvage activities on this project, contact the U.S. Environmental Protection Agency, Region 5, concerning removal and salvage methods, final disposition of crossties preserved with creosote, procedures for storing and fueling of construction equipment, procedures for the prevention and/or control of spills, and stormwater runoff mitigation practices to be utilized during abandonment activities; (5) contact the U.S. Fish and Wildlife Service prior to commencement of

with the conditions, the Board removed these conditions in a decision served on November 10, 2004.

HISTORIC REVIEW

As discussed above, BNSF submitted an Environmental and Historic Report as part of its abandonment proceeding, as required by the Board's environmental rules [49 CFR 1105.8(a)], and served the report on the Minnesota Historical Society (the State Historic Preservation Office or SHPO), pursuant to 49 CFR 1105.8(c). According to the SHPO, the line is partially located in the Stillwater Historic District, which is listed in the National Register of Historic Places (National Register), and is located within the Stillwater Cultural District, which has been determined eligible for listing on the National Register. In addition, the line is located adjacent to individually listed National Register properties. At the time that the June 2004 EA was prepared, the SHPO had not completed its assessment of the proposed abandonment, and SEA recommended a condition to ensure compliance with the Section 106 process of the NHPA.

In the June 25, 2004 Decision, the Board imposed a condition that required BNSF to retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until completion of the Section 106 process of the NHPA. Thereafter, it was determined that the abandonment would have an effect on historic resources. As a result of the consultation process and pursuant to the regulations implementing Section 106 of the NHPA, a Memorandum of Agreement (MOA) was executed. The filing of this MOA with the Advisory Council on Historic Preservation completed our compliance responsibilities under Section 106, and the Board removed the Section 106 condition in the November 10, 2004 decision.

CONDITIONS

As stated above, the proposed discontinuance of trackage rights would not include salvage operations separate from those connected with BNSF's abandonment of the line. Accordingly, SEA recommends that no environmental conditions be placed on any decision granting authority to discontinue trackage rights.

CONCLUSIONS

Based on the information provided from all sources to date, SEA concludes that, as currently proposed, discontinuance of trackage rights on the line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

any salvage activities on this project; and (6) retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until completion of the section 106 process of the NHPA.

Alternatives to the proposed discontinuance would include denial (and therefore no change in operations) and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

COMMENTS

If you wish to file comments regarding this Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Christa Dean who prepared this environmental assessment. Environmental comments may also be filed electronically on the Board's web site, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB-882 (Sub-No. 2X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Christa Dean, the environmental contact for this case, by phone at (202) 565-1606, fax at (202) 565-9000, or e-mail at deanc@stb.dot.gov.

Date made available to the public: December 16, 2005.

Comment due date: January 3, 2006.

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams
Secretary

Attachment